



**Iowa General Assembly**  
**Daily Bills, Amendments and Study Bills**  
**April 23, 2012**

H8501 .....	2
H8502 .....	3
H8503 .....	6
H8504 .....	16
H8505 .....	17
S5228 .....	19
SSB3204 .....	20



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

House File 2454

H-8501

1 Amend House File 2454 as follows:  
2 1. Page 1, before line 22 by inserting:  
3 <\_\_\_\_. The corporation complies with the provisions  
4 of section 15.107C.  
5 Sec. \_\_\_\_\_. Section 15.107C, subsections 3 and 4,  
6 Code Supplement 2011, are amended to read as follows:  
7 3. The deliberations or meetings of the board  
8 of directors of the corporation that pertain to the  
9 performance of delegated functions or activities that  
10 utilize public funding shall be conducted in accordance  
11 with chapter 21. For purposes of this subsection,  
12 "public funding" includes innovation fund investment  
13 tax credits issued or transferred pursuant to section  
14 15E.52.  
15 4. All of the following shall be subject to chapter  
16 22:  
17 a. Minutes of the meetings conducted in accordance  
18 with subsection 3.  
19 b. All records pertaining to the performance by  
20 the corporation of delegated functions or activities  
21 that utilize public funding. For purposes of this  
22 subsection, "public funding" includes innovation fund  
23 investment tax credits issued or transferred pursuant  
24 to section 15E.52.>  
25 2. Page 2, line 21, by striking <11> and inserting  
26 <9>  
27 3. Page 2, before line 26 by inserting:  
28 <\_\_\_\_. A corporation to which a certificate has  
29 been issued pursuant to paragraph "b" shall ensure  
30 that an investor in an innovation fund operated by  
31 the corporation shall not be permitted to vote for or  
32 participate in a decision to invest moneys from the  
33 innovation fund in a business in which the investor has  
34 an equity interest of greater than fifty percent if  
35 that investor has received or will receive a tax credit  
36 issued or transferred pursuant to this section.>  
37 4. By renumbering, redesignating, and correcting  
38 internal references as necessary.

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HF2454.5978 (1) 84

-1-

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1/1



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

Senate File 2315

H-8502

1 Amend the amendment, H-8413, to Senate File 2315,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:  
4 1. Page 7, after line 25 by inserting:  
5 <\_\_\_\_. Page 19, after line 34 by inserting:  
6 <Sec. \_\_\_\_\_. MENTAL HEALTH AND DISABILITY SERVICES  
7 REDESIGN TRANSITION FUND.  
8 1. A mental health and disability services redesign  
9 transition fund is created under the authority of  
10 the department of human services for the fiscal year  
11 beginning July 1, 2012, and ending June 30, 2013.  
12 Moneys credited to the fund shall be used as provided  
13 in appropriations made from the fund, to be enacted by  
14 the general assembly, for allocation by the department  
15 to counties for one-time assistance for continuation  
16 of current core county mental health and disability  
17 services to targeted populations that are not funded by  
18 the Medicaid program.  
19 2. The eligibility provisions for a county to  
20 receive moneys from the fund shall include but are not  
21 limited to all of the following:  
22 a. The application and application materials  
23 submitted are approved by the county board of  
24 supervisors.  
25 b. The county levy certified for the county's  
26 services fund under section 331.424A for the fiscal  
27 year is the maximum amount authorized by law.  
28 c. The county financial information provided  
29 with the application is independently verified. The  
30 financial information to be provided shall be specified  
31 by the department and may include actual and projected  
32 cash and accrued fund balances, detailed accounts  
33 receivable and payable information, budgeted revenues  
34 and expenditures, identification of the need for the  
35 amount requested, and costs for the county's services  
36 administration.  
37 d. The required county service information is  
38 provided with the application. The county service  
39 information to be provided shall be specified by the  
40 department and may include the following:  
41 (1) The type, amount, and scope of services  
42 provided by the county as compared with other counties.  
43 (2) The extent to which the county subsidizes the  
44 services directly provided or authorized by the county.  
45 (3) The extent to which the services funded by the  
46 county are included in the county's management plan  
47 approved under section 331.439.  
48 (4) The extent to which services are provided  
49 to persons other than adults with an intellectual  
50 disability or mental illness with income that is at or

H8413.5981 (2) 84

-1-

jp/rj

1/3



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

1 below 150 percent of the federal poverty level.  
2 e. The application contains a sustainability plan  
3 in accordance with the requirements specified by the  
4 department. The requirements shall include but are not  
5 limited to explanation as to how the moneys requested  
6 will be used during this transition year to provide  
7 services in a manner that will allow the county to  
8 remain within the funding available to the county under  
9 per capita funding provisions, applicable to the county  
10 as enacted by this Act, commencing with the fiscal year  
11 beginning July 1, 2013.  
12 f. The application is submitted on or before the  
13 specified application date. The initial application  
14 date specified shall be on or after October 15, 2012.  
15 g. Other items specified by rule. The department  
16 shall consult with the transition committee created by  
17 this division of this Act in recommending the adoption  
18 of rules by the mental health and disability services  
19 commission delineating the requirements for funding  
20 under this section.  
21 3. The department may provide for distribution  
22 provisions in which the amount awarded is distributed  
23 in more than one payment based upon actual expenditures  
24 and submission of required information.  
25 4. The mental health and disability services  
26 commission may adopt administrative rules under section  
27 17A.4, subsection 3, and section 17A.5, subsection  
28 2, paragraph "b", to implement the provisions of  
29 this section, and the rules shall become effective  
30 immediately upon filing or on a later effective date  
31 specified in the rules, unless the effective date is  
32 delayed by the administrative rules review committee.  
33 Any rules adopted in accordance with this subsection  
34 shall not take effect before the rules are reviewed  
35 by the administrative rules review committee. The  
36 delay authority provided to the administrative rules  
37 review committee under section 17A.4, subsection 7, and  
38 section 17A.8, subsection 9, shall be applicable to a  
39 delay imposed under this subsection, notwithstanding a  
40 provision in those sections making them inapplicable  
41 to section 17A.5, subsection 2, paragraph "b". Any  
42 rules adopted in accordance with the provisions of  
43 this subsection shall also be published as notice of  
44 intended action as provided in section 17A.4.>>  
45 2. Page 8, by striking lines 25 through 34 and  
46 inserting:  
47 <b. (1) The director of human services shall  
48 exempt a county from being required to enter into  
49 a regional service system if the county furnishes  
50 evidence that the county complies with the requirements

H8413.5981 (2) 84

-2-

jp/rj

2/3



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

1 in subsection 3, paragraphs "d", "e", "f", and "g", and  
2 is able to provide the core services required by law  
3 to the county's residents in a manner that is as cost  
4 effective and with outcomes that are at least equal to  
5 what could be provided to the residents if the county  
6 would provide the services through a regional service  
7 system. The director shall identify criteria for  
8 evaluating the evidence provided by counties applying  
9 for the exemption. The criteria identified shall be  
10 specified in rule adopted by the state commission.

11 (2) To be considered for an exemption under  
12 subparagraph (1), a county must file a written  
13 statement of intent to apply for an exemption with the  
14 department on or before May 1, 2013, and the county's  
15 exemption application must be filed with the department  
16 on or before June 30, 2013. The director of human  
17 services shall issue a decision on the application  
18 within forty-five days of receiving the application.  
19 This subparagraph is repealed July 1, 2013.>

20 3. Page 12, after line 15 by inserting:

21 <\_\_\_\_. Page 34, after line 31 by inserting:

22 <Sec. \_\_\_\_\_. EMERGENCY RULES. The mental health and  
23 disability services commission may adopt administrative  
24 rules under section 17A.4, subsection 3, and section  
25 17A.5, subsection 2, paragraph "b", to implement  
26 the provisions of this division of this Act enacting  
27 section 331.438B, that relate to criteria for  
28 evaluation of an application for an exemption from  
29 regionalization, and the rules shall become effective  
30 immediately upon filing or on a later effective date  
31 specified in the rules, unless the effective date is  
32 delayed by the administrative rules review committee.  
33 Any rules adopted in accordance with this section  
34 shall not take effect before the rules are reviewed  
35 by the administrative rules review committee. The  
36 delay authority provided to the administrative rules  
37 review committee under section 17A.4, subsection 7, and  
38 section 17A.8, subsection 9, shall be applicable to a  
39 delay imposed under this section, notwithstanding a  
40 provision in those sections making them inapplicable  
41 to section 17A.5, subsection 2, paragraph "b". Any  
42 rules adopted in accordance with the provisions of this  
43 section shall also be published as notice of intended  
44 action as provided in section 17A.4.>>

45 4. By renumbering as necessary.

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H8413.5981 (2) 84

-3-

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3/3



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

House File 2422

H-8503

1 Amend the amendment, H-8486, to House File 2422,  
2 as amended, passed, and reprinted by the House, as  
3 follows:

4 1. By striking page 1, line 3, through page 3, line  
5 12, and inserting:

6 <\_\_\_\_. By striking everything after the enacting  
7 clause and inserting:

8 <Section 1. Section 135C.3, subsection 1, Code  
9 2011, is amended to read as follows:

10 1. *a.* A licensed nursing facility shall provide  
11 an organized twenty-four-hour program of services  
12 commensurate with the needs of its residents and  
13 under the immediate direction of a licensed nurse.  
14 Medical and nursing services must be provided  
15 under the direction of either a house physician  
16 or an individually selected physician. Surgery or  
17 obstetrical care shall not be provided within the  
18 facility. An admission to the nursing facility must  
19 be based on a physician's written order certifying  
20 that the individual being admitted requires no greater  
21 degree of nursing care than the facility to which the  
22 admission is made is licensed to provide and is capable  
23 of providing.

24 *b.* A nursing facility is not required to admit  
25 an individual through court order, referral, or  
26 other means without the express prior approval of the  
27 administrator of the nursing facility. For purposes of  
28 this paragraph, the approval of the administrator of  
29 the nursing facility cannot be withheld on the basis of  
30 considerations that are otherwise prohibited by state  
31 or federal law.

32 Sec. 2. Section 135C.4, Code 2011, is amended to  
33 read as follows:

34 **135C.4 Residential care facilities.**

35 1. Each facility licensed as a residential care  
36 facility shall provide an organized continuous  
37 twenty-four-hour program of care commensurate with  
38 the needs of the residents of the home and under  
39 the immediate direction of a person approved and  
40 certified by the department whose combined training and  
41 supervised experience is such as to ensure adequate and  
42 competent care.

43 2. All admissions to residential care facilities  
44 shall be based on an order written by a physician  
45 certifying that the individual being admitted does  
46 not require nursing services or that the individual's  
47 need for nursing services can be avoided if home and  
48 community-based services, other than nursing care, as  
49 defined by this chapter and departmental rule, are  
50 provided.

H8486.5996 (2) 84

-1-

ad/rj

1/10



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

1 3. For the purposes of this section, the home  
2 and community-based services to be provided shall  
3 be limited to the type included under the medical  
4 assistance program provided pursuant to chapter 249A,  
5 shall be subject to cost limitations established by  
6 the department of human services under the medical  
7 assistance program, and except as otherwise provided  
8 by the department of inspections and appeals with  
9 the concurrence of the department of human services,  
10 shall be limited in capacity to the number of licensed  
11 residential care facilities and the number of licensed  
12 residential care facility beds in the state as of  
13 December 1, 2003.

14 4. A residential care facility is not required  
15 to admit an individual through court order, referral,  
16 or other means without the express prior approval of  
17 the administrator of the residential care facility.  
18 For purposes of this subsection, the approval of the  
19 administrator of the residential care facility cannot  
20 be withheld on the basis of considerations that are  
21 otherwise prohibited by state or federal law.

22 Sec. 3. NEW SECTION. 135C.23A Sex offender  
23 notification.

24 1. Upon commitment of a person required to register  
25 as a sex offender as provided in section 692A.103 to  
26 a nursing facility, residential care facility, or  
27 assisted living program as defined in section 231C.2,  
28 the clerk of the committing court shall notify the  
29 department of inspections and appeals and the admitting  
30 facility or program.

31 2. Prior to admission of a resident or tenant to  
32 a nursing facility, residential care facility, or  
33 assisted living program, the facility or program shall  
34 access and search the sex offender registry established  
35 in chapter 692A to determine whether the resident  
36 or tenant is a person required to register as a sex  
37 offender, as provided in section 692A.103.

38 3. Upon the admission of a person required to  
39 register as a sex offender, a nursing facility,  
40 residential care facility, or assisted living program  
41 shall provide notice of the admission, in accordance  
42 with the federal Health Insurance Portability and  
43 Accountability Act of 1996, Pub. L. No. 104-191, other  
44 state and federal regulations, and rules adopted by the  
45 department, to all of the following persons:

46 a. Residents or tenants of the facility or program.

47 b. The emergency contact person or next of kin for  
48 residents or tenants of the facility or program.

49 c. Operators, owners, managers, or employees of the  
50 facility or program.

H8486.5996 (2) 84

-2-

ad/rj

2/10



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

1     *d.* Visitors to the facility or program.  
2     *e.* The sheriff for the county in which the facility  
3 or program is located. The sheriff shall notify local  
4 law enforcement agencies.  
5     4. Upon the admission of a person required to  
6 register as a sex offender, a nursing facility,  
7 residential care facility, or assisted living program  
8 shall develop and implement a written safety plan for  
9 each such person in accordance with rules adopted by  
10 the department.  
11     5. The department shall establish by rule, all of  
12 the following:  
13     *a.* The requirements of the notice required under  
14 this section. The rules shall include but are not  
15 limited to provisions for the method of notice and  
16 time of notice to each of the persons enumerated in  
17 subsection 3.  
18     *b.* The requirements of a safety plan for persons  
19 required to register as a sex offender who are admitted  
20 by a nursing facility, residential care facility, or  
21 assisted living program. The rules shall include but  
22 are not limited to all of the following:  
23     (1) A plan for the safety of residents, tenants,  
24 and staff of the facility or program.  
25     (2) A plan for the safety of others when community  
26 functions are held at a facility or program and when a  
27 person required to register as a sex offender is not on  
28 the premises of a facility or program but the person  
29 remains within the care, custody, and control of the  
30 facility or program.  
31     (3) A provision to establish the responsibilities  
32 of a nursing facility, residential care facility, and  
33 assisted living program and the operators, owners,  
34 managers, and employees of facilities and programs in  
35 implementing a safety plan.  
36     (4) A provision for the timely development and  
37 implementation of a safety plan.  
38     6. The department shall work with interested  
39 stakeholders in developing the proposed rules under  
40 this section.  
41     7. A violation of this section is subject to the  
42 imposition of a civil penalty in accordance with rules  
43 adopted by the department pursuant to this section.  
44     Sec. 4. Section 229A.8A, subsection 5, Code 2011,  
45 is amended to read as follows:  
46     5. Committed Except as provided in subsection 6A,  
47 committed persons in the transitional release program  
48 are not necessarily required to be segregated from  
49 other persons.  
50     Sec. 5. Section 229A.8A, Code 2011, is amended by

H8486.5996 (2) 84

-3-

ad/rj

3/10





Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

1 adding the following new subsection:  
2 NEW SUBSECTION. 6A. Persons in the transitional  
3 release program shall not be released to a health care  
4 facility as defined in section 135C.1.  
5 Sec. 6. Section 229A.9A, Code 2011, is amended by  
6 adding the following new subsection:  
7 NEW SUBSECTION. 3A. If a release with or without  
8 supervision is ordered, the committed person shall not  
9 be released to a health care facility as defined in  
10 section 135C.1.  
11 Sec. 7. Section 231C.3, subsection 9, Code 2011, is  
12 amended to read as follows:  
13 9. An assisted living program shall comply with  
14 section sections 135C.23A and 135C.33.  
15 Sec. 8. Section 231C.5A, Code 2011, is amended to  
16 read as follows:  
17 **231C.5A Assessment of tenants — program**  
18 **eligibility.**  
19 1. An assisted living program receiving  
20 reimbursement through the medical assistance program  
21 under chapter 249A shall assist the department of  
22 veterans affairs in identifying, upon admission of a  
23 tenant, the tenant's eligibility for benefits through  
24 the United States department of veterans affairs.  
25 The assisted living program shall also assist the  
26 commission of veterans affairs in determining such  
27 eligibility for tenants residing in the program on July  
28 1, 2009. The department of inspections and appeals,  
29 in cooperation with the department of human services,  
30 shall adopt rules to administer this section, including  
31 a provision that ensures that if a tenant is eligible  
32 for benefits through the United States department of  
33 veterans affairs or other third-party payor, the payor  
34 of last resort for reimbursement to the assisted living  
35 program is the medical assistance program. The rules  
36 shall also require the assisted living program to  
37 request information from a tenant or tenant's personal  
38 representative regarding the tenant's veteran status  
39 and to report to the department of veterans affairs  
40 only the names of tenants identified as potential  
41 veterans along with the names of their spouses and  
42 any dependents. Information reported by the assisted  
43 living program shall be verified by the department of  
44 veterans affairs.  
45 2. An assisted living program is not required  
46 to enter into a lease or occupancy agreement with an  
47 individual through court order, referral, or other  
48 means without the express prior approval of the manager  
49 of the assisted living program. For purposes of this  
50 subsection, the approval of the manager of the assisted

H8486.5996 (2) 84

-4-

ad/rj

4/10



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

1 living program cannot be withheld on the basis of  
2 considerations that are otherwise prohibited by state  
3 or federal law.

4 Sec. 9. Section 231C.14, subsection 1, Code 2011,  
5 is amended by adding the following new paragraph:

6 NEW PARAGRAPH. d. Noncompliance with section  
7 135C.23A.

8 Sec. 10. Section 602.8102, Code 2011, is amended by  
9 adding the following new subsection:

10 NEW SUBSECTION. 152. Notify the department of  
11 inspections and appeals and the admitting entity upon  
12 commitment of a person required to register as a sex  
13 offender as provided in section 692A.103 to a nursing  
14 facility or residential care facility as defined in  
15 section 135C.1, or assisted living program as defined  
16 in section 231C.2.

17 Sec. 11. PLACEMENT OF PERSONS REQUIRED TO  
18 REGISTER.

19 1. For purposes of this section, "adequate  
20 placement" means a placement that will provide the  
21 level of care necessary for a person including the  
22 level of care provided by a nursing facility or  
23 residential care facility.

24 2. For the period beginning July 1, 2012, through  
25 June 30, 2013, the department of human services, in  
26 compliance with federal and state law, shall secure  
27 adequate placements for persons required to register  
28 as a sex offender pursuant to chapter 692A who are  
29 being released from the custody of the department  
30 of corrections and require the type of medical  
31 and personal care provided by a nursing facility,  
32 residential care facility, or assisted living program;  
33 who are being discharged or transferred from nursing  
34 facilities, residential care facilities, or assisted  
35 living programs pursuant to a provision of this Act;  
36 or who require the type of medical and personal care  
37 provided by nursing facilities, residential care  
38 facilities, or assisted living programs when the  
39 persons are unable to gain access to a facility or  
40 program because the persons are required to register on  
41 the sex offender registry.

42 3. The department of human services may use a  
43 state facility to provide care for such persons or may  
44 conduct a request for proposal process to contract with  
45 a private facility to care for such persons. A request  
46 for proposals shall identify the reimbursement rate  
47 and the necessary training for staff in the facility  
48 or program.

49 4. The department of human services shall secure  
50 an adequate placement for such a person within ten

H8486.5996 (2) 84

-5-

ad/rj

5/10



**Iowa General Assembly**  
**Daily Bills, Amendments and Study Bills**  
**April 23, 2012**

1 business days of being notified by the department of  
2 corrections, the department of inspections and appeals,  
3 or a nursing facility, residential care facility,  
4 or assisted living program that placement is needed  
5 for such person, provided that such period shall not  
6 commence until the department of public safety receives  
7 and approves registration data and makes such data  
8 available on the sex offender registry internet site  
9 pursuant to section 692A.121, subsection 12.

10 Sec. 12. WORKFORCE DEVELOPMENT WORKGROUP.

11 1. If a workgroup to address issues connected with  
12 workforce development related to mental health and  
13 disability services is established by or as a result  
14 of legislation enacted by the 2012 regular session of  
15 the Eighty-fourth General Assembly, the workgroup shall  
16 also address issues connected with ensuring that an  
17 adequate workforce is available in the state to provide  
18 services to persons who have a history of committing  
19 sexual offenses and have been determined to be likely  
20 to reoffend.

21 2. a. If a workgroup to address issues connected  
22 with workforce development for mental health and  
23 disability services is not established by or as a  
24 result of legislation enacted by the 2012 regular  
25 session of the Eighty-fourth General Assembly, the  
26 department of human services shall convene and provide  
27 support to a health and mental health services for  
28 sexual offender workforce development workgroup to  
29 address issues connected with ensuring that an adequate  
30 workforce is available in the state to provide health  
31 and mental health services to persons who have a  
32 history of committing sexual offenses and have been  
33 determined to be likely to reoffend. The workgroup  
34 shall report at least annually to the governor and  
35 general assembly providing findings, recommendations,  
36 and financing information concerning the findings and  
37 recommendations.

38 b. The membership of the workgroup shall include  
39 all of the following:

40 (1) The director of the department of aging or the  
41 director's designee.

42 (2) The director of the department of corrections  
43 or the director's designee.

44 (3) The director of the department of education or  
45 the director's designee.

46 (4) The director of human services or the  
47 director's designee.

48 (5) The director of the department of public health  
49 or the director's designee.

50 (6) The director of the department of workforce

H8486.5996 (2) 84

-6-

ad/rj

6/10



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

1 development or the director's designee.

2 (7) At least three individuals who have a history  
3 of committing sexual offenses and have been determined  
4 likely to reoffend who are receiving mental health  
5 or health services or involved relatives of such  
6 individuals.

7 (8) At least three providers of mental health or  
8 health services for individuals who have a history of  
9 committing sexual offenses and have been determined  
10 likely to reoffend.

11 (9) Other persons identified by the workgroup.

12 c. In addition to the members identified in  
13 paragraph "b", the membership of the workgroup  
14 shall include four members of the general assembly  
15 serving in a ex officio, nonvoting capacity. One  
16 member shall be designated by each of the following:  
17 the majority leader of the senate, the minority  
18 leader of the senate, the speaker of the house of  
19 representatives, and the minority leader of the house  
20 of representatives. A legislative member serves for a  
21 term as provided in section 69.16B.

22 d. Except as provided in paragraph "c" for  
23 legislative appointments, the workgroup shall determine  
24 its own rules of procedure, membership terms, and  
25 operating provisions.

26 Sec. 13. FACILITY FOR SEXUAL OFFENDERS COMMITTEE  
27 AND REPORT.

28 1. The department of inspections and appeals, in  
29 conjunction with the department of human services,  
30 shall establish and facilitate the activities of  
31 a committee of stakeholders to examine options for  
32 designating a facility to provide care for persons in  
33 this state who have a history of committing sexual  
34 offenses and have been determined to be likely to  
35 reoffend.

36 2. The membership of the committee shall include  
37 but is not limited to the following:

38 a. Representatives of the departments of  
39 inspections and appeals, human services, public health,  
40 corrections, and aging, the office of the state public  
41 defender, the office of the citizens' aide, the office  
42 of the state long-term care ombudsman, and the judicial  
43 branch.

44 b. Consumers of services provided by health care  
45 facilities and family members of consumers.

46 c. Representatives of the health care industry and  
47 industry associations.

48 d. Direct care workers employed by health care  
49 facilities.

50 e. Representatives from the Iowa legal aid.

H8486.5996 (2) 84

-7-

ad/rj

7/10



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

- 1 f. Representatives from AARP Iowa.  
2 g. Representatives from the Iowa civil liberties  
3 union.  
4 h. Other stakeholders as the department of  
5 inspections and appeals and the department of human  
6 services deem necessary.  
7 i. Four ex officio, nonvoting members from the  
8 general assembly with not more than one member from  
9 each chamber being from the same political party.  
10 The two senators shall be appointed, one each, by  
11 the majority leader of the senate and the minority  
12 leader of the senate. The two representatives shall  
13 be appointed, one each, by the speaker of the house of  
14 representatives and the minority leader of the house  
15 of representatives.  
16 3. The committee shall discuss and make  
17 recommendations on all of the following:  
18 a. Options to create a new facility or assist  
19 an existing facility to expand services to provide  
20 care for elderly persons who are no longer under  
21 judicial control, but have a history of committing  
22 sexual offenses and have been determined to be  
23 likely to reoffend. The committee shall identify  
24 the characteristics of a client for such a facility,  
25 the need for such a facility, options for creating  
26 a new facility to house such persons, options for  
27 the expansion of an existing facility to house such  
28 persons, options for using any alternative facilities  
29 for such purposes, options for a public-private  
30 partnership for such a facility, options for  
31 using part of a mental health institute to house  
32 such persons, options to qualify a facility for  
33 Medicaid reimbursement, cost projections for any  
34 recommendations, regulatory challenges, and other  
35 information deemed relevant by the department of  
36 inspections and appeals and the department of human  
37 services.  
38 b. The responsibility of the court, the clerk of  
39 the district court, the department of corrections,  
40 or any other entity, department, or person to inform  
41 a nursing facility, residential care facility, or an  
42 assisted living program of the admission of a person  
43 who has a history of committing sexual offenses.  
44 c. The responsibility of the court, clerk of the  
45 district court, department of corrections, a facility,  
46 or any other entity, department, or person to notify  
47 persons of the discharge of a person who has a history  
48 of committing sexual offenses from a nursing facility,  
49 residential care facility, or assisted living program.  
50 d. The requirements of a treatment safety plan for

H8486.5996 (2) 84

-8-

ad/rj

8/10



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

1 a person admitted to a nursing facility, residential  
2 care facility, or assisted living program who has a  
3 history of committing sexual offenses. The treatment  
4 safety plan shall address the procedure for notifying  
5 other residents of the residency of a person required  
6 to register as a sex offender.  
7 e. The establishment of a formal process for  
8 the department of inspections and appeals to follow  
9 when completing facility or assisted living program  
10 inspections or surveys.  
11 f. The establishment of a system for the judicial  
12 branch to identify facilities with the capacity to  
13 provide an appropriate placement for a person requiring  
14 commitment when the person also has a history of  
15 committing sexual offenses.  
16 4. The committee shall provide a report detailing  
17 its findings and recommendations to the governor and  
18 the general assembly by December 14, 2012.  
19 Sec. 14. EMERGENCY RULES. If specifically  
20 authorized by a provision of this Act, the department  
21 of inspections and appeals may adopt administrative  
22 rules under section 17A.4, subsection 3, and section  
23 17A.5, subsection 2, paragraph "b", to implement  
24 the provisions and the rules shall become effective  
25 immediately upon filing or on a later effective date  
26 specified in the rules, unless the effective date is  
27 delayed by the administrative rules review committee.  
28 Any rules adopted in accordance with this section  
29 shall not take effect before the rules are reviewed  
30 by the administrative rules review committee. The  
31 delay authority provided to the administrative rules  
32 review committee under section 17A.4, subsection 7, and  
33 section 17A.8, subsection 9, shall be applicable to a  
34 delay imposed under this section, notwithstanding a  
35 provision in those sections making them inapplicable  
36 to section 17A.5, subsection 2, paragraph "b". Any  
37 rules adopted in accordance with the provisions of this  
38 section shall also be published as a notice of intended  
39 action as provided in section 17A.4.  
40 Sec. 15. CURRENT RESIDENTS AND TENANTS —  
41 ACCESS AND SEARCH OF SEX OFFENDER REGISTRY AND  
42 NOTIFICATION. A nursing facility, residential care  
43 facility, or assisted living program, within three  
44 months of the adoption of the rules by the department  
45 of inspections and appeals regarding notification of  
46 the admission of persons required to register as a  
47 sex offender to a facility or program and development  
48 and implementation of safety plans relating to such  
49 admitted persons, shall access and search the sex  
50 offender registry established in chapter 692A for

H8486.5996 (2) 84

-9-

ad/rj

9/10



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

1 persons who were residents or tenants of a facility  
2 or program prior to the adoption of the rules and who  
3 remain residents or tenants of the facility or program  
4 after the adoption of the rules. Upon determining that  
5 a resident or tenant is a person required to register  
6 as a sex offender, the facility or program shall,  
7 within three months of the adoption of the rules,  
8 work with the department of inspections and appeals  
9 and the department of human services to transfer a  
10 sex offender living in the facility or program to a  
11 state facility, based on the sex offender status as  
12 an endangerment to the safety of individuals in the  
13 facility or program, or notify persons as required by  
14 section 135C.23A and the rules adopted pursuant to  
15 that section and develop and implement a safety plan  
16 as required by section 135C.23A and the rules adopted  
17 pursuant to that section. The rules shall provide  
18 that, for purposes of this section, a nursing facility,  
19 residential care facility, or assisted living program  
20 has the right to discharge a current resident or tenant  
21 based solely on the person's status as a sex offender  
22 as an endangerment to the safety of individuals in the  
23 facility or program.  
24 Sec. 16. EFFECTIVE UPON ENACTMENT. This Act, being  
25 deemed of immediate importance, takes effect upon  
26 enactment.>  
27 \_\_\_\_\_. Title page, line 3, after <program,> by  
28 inserting <the care and housing of sex offenders and  
29 sexually violent predators,>>

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FRY of Clarke



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

House File 2454

H-8504

- 1 Amend House File 2454 as follows:  
2 1. Page 1, after line 21 by inserting:  
3 < \_\_\_\_\_. The innovation fund shall not invest in  
4 any business in which an equity interest is held by  
5 a person that has or will receive an innovation fund  
6 investment tax credit certificate from a corporation  
7 pursuant to section 15E.52, subsection 3, paragraph  
8 "c".>  
9 2. Page 3, after line 30 by inserting:  
10 < \_\_\_\_\_. The fund does not or will not invest in  
11 any business in which an equity interest is held by  
12 a person that has or will receive an innovation fund  
13 investment tax credit certificate from a corporation  
14 pursuant to section 15E.52, subsection 3, paragraph  
15 "c".>  
16 3. By renumbering, redesignating, and correcting  
17 internal references as necessary.

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PETERSEN of Polk





Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

Senate Amendment to  
House File 563

H-8505

1 Amend House File 563, as passed by the House, as  
2 follows:

3 1. Page 1, by striking lines 1 through 30 and  
4 inserting:

5 <Section 1. Section 13.7, Code Supplement 2011, is  
6 amended to read as follows:

7 **13.7 Special counsel.**

8 1. Compensation shall not be allowed to any  
9 person for services as an attorney or counselor to an  
10 executive department of the state government, or the  
11 head of an executive department of state government, or  
12 to a state board or commission. However, the executive  
13 council may authorize employment of legal assistance,  
14 at a reasonable compensation, in a pending action or  
15 proceeding to protect the interests of the state, but  
16 only upon a sufficient showing, in writing, made by the  
17 attorney general, that the department of justice cannot  
18 for reasons stated by the attorney general perform the  
19 service. The reasons and action of the council shall  
20 be entered upon its records. If the attorney general  
21 determines that the department of justice cannot  
22 perform legal service in an action or proceeding, the  
23 executive council shall request the department involved  
24 in the action or proceeding to recommend legal counsel  
25 to represent the department. If the attorney general  
26 concurs with the department that the person recommended  
27 is qualified and suitable to represent the department,  
28 the person recommended shall be employed. If the  
29 attorney general does not concur in the recommendation,  
30 the department shall submit a new recommendation. This  
31 section subsection does not affect the general counsel  
32 for the utilities board of the department of commerce,  
33 the legal counsel of the department of workforce  
34 development, or the general counsel for the property  
35 assessment appeal board.

36 2. The executive branch and the attorney general  
37 shall also comply with chapter 23B when retaining legal  
38 counsel on a contingency fee basis under this section,  
39 as appropriate.>

40 2. Page 2, by striking lines 32 and 33 and  
41 inserting <basis, unless the attorney general  
42 determines that the procurement process is not feasible  
43 under the circumstances and sets>

44 3. Page 2, by striking line 35 and inserting:

45 <3. a. Except as provided in paragraph "c", the  
46 state shall not enter into a contingency fee>

47 4. Page 3, line 5, after <dollars> by inserting <,  
48 exclusive of reasonable costs and expenses>

49 5. Page 3, line 8, after <dollars> by inserting <,  
50 exclusive of reasonable costs and expenses>

HF563.5898.S (1) 84

-1-

jh

1/2



**Iowa General Assembly**  
**Daily Bills, Amendments and Study Bills**  
**April 23, 2012**

- 1     6. Page 3, line 11, after <dollars> by inserting <  
2 exclusive of reasonable costs and expenses>  
3     7. Page 3, line 14, after <dollars> by inserting <  
4 exclusive of reasonable costs and expenses>  
5     8. Page 3, line 16, after <dollars> by inserting <  
6 exclusive of reasonable costs and expenses>  
7     9. Page 3, by striking lines 23 and 24 and  
8 inserting <executive council of the aggregate  
9 contingency fee limits in paragraphs "a" and "b" if the  
10 attorney general provides a thirty-day>  
11    10. Page 4, line 11, by striking <attend> and  
12 inserting <participate in>  
13    11. By striking page 4, line 33, through page  
14 5, line 3, and inserting <copying upon request in  
15 accordance with chapter 22.>  
16    12. By renumbering as necessary.

HF563.5898.S (1) 84

-2-

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2/2



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

House Amendment to  
Senate File 2332

S-5228

- 1 Amend Senate File 2332, as passed by the Senate, as  
2 follows:  
3 1. Page 6, line 11, before <Notwithstanding> by  
4 inserting <1.>  
5 2. Page 6, after line 29 by inserting:  
6 <2. Notwithstanding subsection 1, a temporary  
7 moratorium shall be applicable to a new surcharge  
8 authorized pursuant to this section until one hundred  
9 and fifty days after submission of recommendations by  
10 the E911 task force established by this Act to the  
11 general assembly.>  
12 3. Page 11, line 15, by striking <located inside>  
13 and inserting <~~located inside~~ utilized by>  
14 4. By renumbering as necessary.



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

**Senate Study Bill 3204 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CHAIRPERSON BOLKCOM)

**A BILL FOR**

1 An Act relating to state taxation by providing specified tax  
2 credits for the construction and installation of solar  
3 energy systems and geothermal heat pumps, modifying sale  
4 and use tax provisions related to property purchased for  
5 resale, and creating a sales tax exemption for certain items  
6 purchased for use in providing vehicle wash and wax services  
7 and including effective date and retroactive and other  
8 applicability provisions.  
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6139XC (6) 84  
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Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

S.F. \_\_\_\_\_

1 DIVISION I  
2 GEOTHERMAL HEAT PUMP TAX CREDITS  
3 Section 1. NEW SECTION. 422.11I Geothermal heat pump tax  
4 credit.  
5 The taxes imposed under this division, less the credits  
6 allowed under section 422.12, shall be reduced by a geothermal  
7 heat pump tax credit equal to twenty percent of the federal  
8 residential energy efficient property tax credit allowed for  
9 geothermal heat pumps provided in section 25(D)(a)(5) of the  
10 Internal Revenue Code for residential property located in Iowa.  
11 Any credit in excess of the tax liability is not refundable  
12 but the excess for the tax year may be credited to the tax  
13 liability for the following ten years or until depleted,  
14 whichever is earlier. The director of revenue shall adopt  
15 rules to implement this section.  
16 Sec. 2. Section 427.1, Code Supplement 2011, is amended by  
17 adding the following new subsection:  
18 NEW SUBSECTION. 38. *Geothermal heating and cooling system.*  
19 a. The value added by any new or refitted construction or  
20 installation of a geothermal heating or cooling system on or  
21 after July 1, 2012, on property classified as residential.  
22 The exemption shall be allowed for ten consecutive years.  
23 The exemption shall apply to any value added by the addition  
24 of mechanical, electrical, plumbing, ductwork, or other  
25 equipment, labor, and expenses included in or required for the  
26 construction or installation of the geothermal system, as well  
27 as the proportionate value of any well field associated with  
28 the system and attributable to the owner.  
29 b. A person claiming an exemption under this subsection  
30 shall obtain the appropriate forms from the assessor. The  
31 forms shall be prescribed by the director of revenue. The  
32 claim shall be filed no later than February 1 of the first  
33 assessment year the exemption is requested and shall contain  
34 information pertaining to all costs and other information  
35 associated with construction and installation of the system.



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

S.F. \_\_\_\_\_

1 Once the exemption is allowed, the exemption shall continue to  
2 be allowed for ten consecutive years without further filing as  
3 long as the property continues to be classified as residential  
4 property.

5 c. The director shall adopt rules to implement this  
6 subsection.

7 Sec. 3. IMPLEMENTATION. Section 25B.7 does not apply to the  
8 property tax exemption enacted in this division of this Act.

9 Sec. 4. EFFECTIVE UPON ENACTMENT. This division of this  
10 Act, being deemed of immediate importance, takes effect upon  
11 enactment.

12 Sec. 5. RETROACTIVE APPLICABILITY. The following provision  
13 or provisions of this division of this Act apply retroactively  
14 to January 1, 2012, for tax years beginning on or after that  
15 date:

16 1. The section of this division of this Act enacting section  
17 422.11I.

18 Sec. 6. APPLICABILITY. The following provision or  
19 provisions of this division of this Act apply to assessment  
20 years beginning on or after January 1, 2013:

21 1. The section of this division of this Act enacting section  
22 427.1, subsection 38.

23 DIVISION II

24 SOLAR ENERGY SYSTEM TAX CREDITS

25 Sec. 7. NEW SECTION. 422.11L Solar energy system tax  
26 credits.

27 The taxes imposed under this division, less the credits  
28 allowed under section 422.12, shall be reduced by a solar  
29 energy system tax credit under section 473B.2.

30 Sec. 8. Section 422.33, Code Supplement 2011, is amended by  
31 adding the following new subsection:

32 NEW SUBSECTION. 29. The taxes imposed under this division  
33 shall be reduced by a solar energy system tax credit under  
34 section 473B.2.

35 Sec. 9. NEW SECTION. 473B.1 Definitions.

LSB 6139XC (6) 84

-2-

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2/9



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

S.F. \_\_\_\_\_

1 As used in this chapter, unless the context otherwise  
2 requires:

3 1. "*Allowable costs*" means amounts incurred in the  
4 construction or installation of a solar energy system which are  
5 determined by the department by rule to qualify for the tax  
6 credit issued pursuant to section 473B.2.

7 2. "*Department*" means the department of revenue.

8 3. "*Solar energy system*" means a solar energy facility which  
9 collects and converts incident solar radiation into energy to  
10 generate electricity, or a solar thermal system.

11 Sec. 10. NEW SECTION. 473B.2 Tax credit.

12 1. A solar energy system tax credit shall be issued for the  
13 allowable costs incurred in the construction or installation  
14 of a solar energy system equal to thirty percent of the cost of  
15 the construction or installation, subject to a maximum credit  
16 of fifteen thousand dollars for commercial or agricultural  
17 construction or installation, or three thousand dollars for  
18 residential construction or installation. Any credit in excess  
19 of the tax liability is refundable. In lieu of claiming a  
20 refund, the taxpayer may elect to have the overpayment shown  
21 on the taxpayer's final, completed return credited to the tax  
22 liability for the following tax year.

23 2. a. An individual may claim the tax credit allowed a  
24 partnership, limited liability company, S corporation, estate,  
25 or trust electing to have the income taxed directly to the  
26 individual. The amount claimed by the individual shall be  
27 based upon the pro rata share of the individual's earnings of  
28 the partnership, limited liability company, S corporation,  
29 estate, or trust.

30 b. A taxpayer who is eligible to claim a solar energy system  
31 tax credit under this chapter shall not be eligible to claim a  
32 renewable energy tax credit under chapter 476C.

33 3. The cumulative value of tax credit certificates issued  
34 annually by the department to applicants pursuant to this  
35 chapter shall not exceed one million five hundred thousand



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

S.F. \_\_\_\_\_

1 dollars.

2 Sec. 11. NEW SECTION. 473B.3 Tax credit certificate —  
3 application and issuance.

4 1. a. To receive a tax credit as described in section  
5 473B.2, a taxpayer shall file an application with the  
6 department, the form and content of which shall be determined  
7 by the department by rule. If upon receipt of a completed  
8 application, the department finds that the person is qualified  
9 for a solar energy system tax credit, the department shall  
10 calculate the amount of the tax credit for which the person is  
11 eligible and shall issue the applicable tax credit certificate  
12 to the person or notify the person in writing of its refusal to  
13 do so. The tax credit certificate may be applied against tax  
14 owned pursuant to chapter 422, division II and III for the year  
15 in which the allowable costs were incurred.

16 b. At a minimum, qualification criteria for issuance of  
17 a certificate pursuant to paragraph "a" shall include the  
18 following:

19 (1) An applicant shall complete and submit an energy audit  
20 conducted either by or on behalf of the applicant's electric  
21 utility or through a private energy audit service. The level  
22 of energy audit to be conducted shall be determined under rules  
23 adopted by the department in consultation with the utilities  
24 board of the utilities division of the department of commerce.

25 (2) The solar energy system must qualify for the energy star  
26 efficiency rating developed by the United States environmental  
27 protection agency, or a similar certification program or status  
28 designated by the department by rule, if available.

29 (3) The installation must be performed by a licensed or  
30 certified installer qualified to install solar energy systems  
31 and related equipment, and must meet or exceed all requirements  
32 of applicable local building codes and ordinances.

33 2. A person whose application for a solar energy system  
34 tax credit certificate is denied may file an appeal with the  
35 department within sixty days from the date of denial pursuant





Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

S.F. \_\_\_\_\_

1 to the provisions of chapter 17A.

2 3. If a solar energy system tax credit certificate  
3 is allowed with respect to residential, commercial, or  
4 agricultural property and such property is sold, the credit for  
5 the period after the sale which would have been allowable under  
6 this chapter to the prior owner had the property not been sold  
7 shall be allowable to the new owner. A tax credit for the year  
8 of sale shall be allocated between the parties on the basis of  
9 the number of days during such year that the property was owned  
10 by each.

11 Sec. 12. NEW SECTION. 473B.4 Reporting.

12 On or before January 1, annually, the department shall  
13 submit a written report to the governor and the general  
14 assembly regarding the number and value of tax credit  
15 certificates issued under this chapter, and any other  
16 information the department may deem meaningful and appropriate.

17 Sec. 13. Section 476C.2, Code Supplement 2011, is amended by  
18 adding the following new subsection:

19 NEW SUBSECTION. 3. A taxpayer who is eligible to claim  
20 a renewable energy tax credit under this chapter shall not  
21 be eligible to claim a solar energy system tax credit under  
22 chapter 473B.

23 Sec. 14. EFFECTIVE UPON ENACTMENT. This division of this  
24 Act, being deemed of immediate importance, takes effect upon  
25 enactment.

26 Sec. 15. RETROACTIVE APPLICABILITY. This division of this  
27 Act applies retroactively to tax years beginning on or after  
28 January 1, 2012.

29 DIVISION III

30 SALES TAX EXEMPTIONS

31 Sec. 16. Section 423.1, subsection 39, paragraphs b and c,  
32 Code Supplement 2011, are amended to read as follows:

33 b. The property is transferred to the user of the service  
34 in connection with the performance of the service in a form  
35 or quantity capable of a fixed or definite price value, or

LSB 6139XC (6) 84

-5-

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5/9

**Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012**

S.F. \_\_\_\_\_

1 the property is entirely consumed in connection with the  
2 performance of an auto body repair service purchased by the  
3 ultimate user.

4       c. The sale is evidenced by a separate charge for the  
5 identifiable piece of property unless the property is entirely  
6 consumed in connection with the performance of an auto body  
7 repair service purchased by the ultimate user.

8     Sec. 17. Section 423.3, Code Supplement 2011, is amended by  
9 adding the following new subsection:

10     NEW SUBSECTION. 96. The sales price from the sale of water,  
11 electricity, chemicals, solvents, sorbents, or reagents to a  
12 retailer to be used in providing a service that includes a  
13 vehicle wash and wax, which vehicle wash and wax service is  
14 subject to section 423.2, subsection 6.

15      Sec. 18. EFFECTIVE UPON ENACTMENT. This division of this  
16 Act, being deemed of immediate importance, takes effect upon  
17 enactment.

## EXPLANATION

19 This bill relates to state taxation by providing specified  
20 tax credits and sales and use tax exemptions.

21 Division I provides an income tax credit and property tax  
22 exemption for the construction or installation of a geothermal  
23 heating or cooling system in connection with residential  
24 property located in Iowa.

25 The division provides for an income tax credit for  
26 such installations equal to twenty percent of the federal  
27 residential energy efficiency property income tax credit  
28 allowed for geothermal heat pumps. The division states that  
29 any credit in excess of tax liability is not refundable but may  
30 be credited to the tax liability for the following 10 years or  
31 until depleted, whichever is earlier.

32 The division additionally provides for a property tax  
33 exemption equal to the value added by any new or refitted  
34 construction or installation of a geothermal heating or cooling  
35 system on or after July 1, 2012. The division states that

LSB 6139XC (6) 84  
mm/nh

-6-

6/9



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

S.F. \_\_\_\_\_

1 the exemption shall be allowed for 10 consecutive years, and  
2 shall apply to any value added by the addition of mechanical,  
3 electrical, plumbing, ductwork, or other equipment, labor,  
4 and expenses included in or required for the construction or  
5 installation of the system, as well as the proportionate value  
6 of any well field associated with the system and attributable  
7 to the owner. The division specifies procedures regarding  
8 claiming the exemption.

9 The division provides for the adoption of rules by the  
10 director of the department of revenue, and states that Code  
11 section 25B.7, regarding full state funding of property  
12 tax credits or exemptions, shall not be applicable to the  
13 geothermal heating and cooling system property tax exemption.

14 The division takes effect upon enactment. Provisions in the  
15 bill enacting the income tax credit for geothermal heat pumps  
16 apply retroactively to January 1, 2012, for tax years beginning  
17 on or after that date. Provisions enacting the property tax  
18 exemption for geothermal heating and cooling systems apply to  
19 assessment years beginning on or after January 1, 2013.

20 Division II provides tax credits for the construction and  
21 installation of solar energy systems as defined in the bill.

22 The division provides that a solar energy system tax credit  
23 shall be issued for the allowable costs, as determined by  
24 the department of revenue, incurred in the construction or  
25 installation of a solar energy system. The credits shall  
26 be equal to 30 percent of the cost of the construction or  
27 installation, subject to a maximum credit of \$15,000 for  
28 commercial or agricultural construction or installation or  
29 \$3,000 for residential construction or installation. The  
30 division specifies that the credits shall be refundable, or  
31 alternatively applied against tax liability for the following  
32 tax year.

33 The division provides that an individual may claim the  
34 tax credit allowed a partnership, limited liability company,  
35 S corporation, estate, or trust electing to have the income

LSB 6139XC (6) 84

-7-

mm/nh

7/9



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

S.F. \_\_\_\_\_

1 taxed directly to the individual, with the amount claimed  
2 based upon the pro rata share of the individual's earnings of  
3 the partnership, limited liability company, S corporation,  
4 estate, or trust. The division also provides that a taxpayer  
5 who is eligible to claim a solar energy system tax credit is  
6 not eligible to claim the renewable energy tax credit provided  
7 in Code chapter 476C. Further, the division restricts the  
8 cumulative total of solar energy system tax credits issued  
9 for all applicants to an amount not exceeding \$1.5 million  
10 annually.

11 The division sets forth application and issuance procedures  
12 in relation to obtaining a tax credit certificate, to be  
13 developed by the department by rule. The division provides  
14 that, at a minimum, qualification criteria shall include  
15 submission of an energy audit at a level determined by  
16 rule conducted either by or on behalf of the applicant's  
17 electric utility or through a private energy audit service,  
18 qualification of the system for the energy star efficiency  
19 rating developed by the United States environmental protection  
20 agency or a similar certification program or status designated  
21 by the department by rule, if available, installation by a  
22 licensed or certified installer qualified to install solar  
23 energy systems and equipment, and meeting or exceeding all  
24 applicable local building code and ordinance requirements.

25 The division states that if the department finds that a  
26 person is qualified for a solar energy system tax credit, the  
27 department shall calculate the amount of the tax credit for  
28 which the person is eligible and either issue the applicable  
29 tax credit certificate to the person or notify the person in  
30 writing of its refusal to do so. The tax credit certificate  
31 may be applied against individual or corporate tax owed  
32 pursuant to Code chapter 422, divisions II and III, for the  
33 year in which the allowable costs were incurred.

34 The division authorizes a person whose application is denied  
35 to file an appeal with the department within 60 days from the



Iowa General Assembly  
Daily Bills, Amendments and Study Bills  
April 23, 2012

S.F. \_\_\_\_\_

1 date of denial, and provides for the proration or allocation  
2 of a credit in the event property subject to a tax credit is  
3 sold. The division contains reporting requirements regarding  
4 the number and value of tax credit certificates issued, and  
5 any other information the department deems meaningful and  
6 appropriate.

7 The division takes effect upon enactment, and applies  
8 retroactively to tax years beginning on or after January 1,  
9 2012.

10 Division III amends the definition of "property purchased  
11 for resale in connection with the performance of a service"  
12 in Code section 423.1. Under current law, property qualifies  
13 as "property purchased for resale in connection with the  
14 performance of a service" if, among other things, it is  
15 transferred during the service in a form or quantity capable  
16 of a fixed or definite price value and listed as a separate  
17 charge. The division provides that property which is entirely  
18 consumed in connection with the performance of an auto body  
19 repair service will also qualify as "property purchased for  
20 resale in connection with the performance of a service", and  
21 provides that the property entirely consumed in performance of  
22 the service need not be listed as a separate charge.

23 The division also creates a sales tax exemption for sales of  
24 water, electricity, chemicals, solvents, sorbents, or reagents  
25 made to a retailer for use in providing taxable vehicle wash  
26 and wax services. By operation of Code section 423.6, an item  
27 exempt from the imposition of the sales tax is also exempt from  
28 the use tax imposed in Code section 423.5.

29 The division takes effect immediately upon enactment.